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# HOUSE BILL No. 1131

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 7.1-5-12; IC 12-7-2-178.8; IC 12-24-2-8; IC 16-18-2; IC 16-41-37.

**Synopsis:** Smoking ban in public places. Prohibits smoking in: (1) public places; (2) enclosed areas of a place of employment; and (3) certain state vehicles. Provides exceptions to certain gaming facilities. Requires the alcohol and tobacco commission to enforce the prohibition. Makes it a Class B infraction to violate the smoking prohibition and a Class A infraction if the person has three unrelated prior offenses. Repeals the current clean indoor air law that prohibits smoking in public buildings.

**Effective:** July 1, 2010.

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**Brown C, Turner, Welch, Sullivan**

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January 7, 2010, read first time and referred to Committee on Public Policy.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

## HOUSE BILL No. 1131

A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 7.1-5-12 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2010]:

4 **Chapter 12. Prohibition on Smoking**

5 **Sec. 1. As used in this chapter, "public place" means an enclosed**  
6 **area in which the public is invited or permitted.**

7 **Sec. 2. As used in this chapter, "smoking" means the:**

- 8 (1) carrying or holding of a lighted cigarette, cigar, pipe, or  
9 any other lighted smoking equipment; or  
10 (2) inhalation or exhalation of smoke from lighted smoking  
11 equipment.

12 **Sec. 3. (a) Smoking is prohibited in the following:**

- 13 (1) A public place.  
14 (2) Enclosed areas of a place of employment.  
15 (3) A vehicle owned, leased, or operated by the state if the  
16 vehicle is being used for a governmental function.

17 **(b) An employer shall inform each of the employer's employees**

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1 and prospective employees of the smoking prohibition in the place  
2 of employment.

3 (c) An owner, an operator, a manager, or other individual with  
4 authority shall remove ashtrays or other smoking paraphernalia  
5 from areas where smoking is prohibited under this chapter.

6 Sec. 4. (a) Notwithstanding section 3(a) of this chapter, the  
7 following facilities may allow smoking:

8 (1) A horse racing facility that is operated under a permit  
9 issued under IC 4-31-5.

10 (2) A riverboat (as defined in IC 4-33-2-17) that is operated  
11 under a license issued under IC 4-33-6 or a contract as an  
12 operating agent under IC 4-33-6.5.

13 (3) A facility that operates under a gambling game license  
14 under IC 4-35-5.

15 (4) A satellite facility that is licensed under IC 4-31-5.5.

16 (b) The official in charge of a facility that allows smoking under  
17 this section shall post a conspicuous sign at each public entrance of  
18 the facility stating that the facility is a smoking facility.

19 Sec. 5. The commission shall enforce this chapter. The  
20 commission may inspect premises that are subject to this chapter  
21 to ensure that the person responsible for the premises is in  
22 compliance with this chapter.

23 Sec. 6. (a) The official in charge of a public place shall do the  
24 following:

25 (1) Post conspicuous signs that read "Smoking Is Prohibited  
26 By State Law" or other similar language.

27 (2) Request an individual who is smoking in violation of this  
28 chapter to refrain from smoking.

29 (3) Remove an individual who is smoking in violation of this  
30 chapter and fails to refrain from smoking after being  
31 requested to do so.

32 (b) The proprietor of a restaurant shall post conspicuous signs  
33 at each entrance to the restaurant, informing the public that  
34 smoking is prohibited in the establishment.

35 Sec. 7. A person who smokes in an area where smoking is  
36 prohibited by this chapter commits prohibited smoking, a Class B  
37 infraction. However, the violation is a Class A infraction if the  
38 person has at least three (3) prior unrelated judgments for a  
39 violation of this chapter.

40 Sec. 8. An owner, manager, or operator of a public place or  
41 place of employment that fails to comply with this chapter commits  
42 a Class B infraction. However, the violation is a Class A infraction

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1 if the person has at least three (3) prior unrelated judgments for a  
2 violation under this chapter.

3 **Sec. 9. This chapter does not prohibit a county, city, town, or**  
4 **other governmental unit from adopting an ordinance more**  
5 **restrictive than this chapter.**

6 SECTION 2. IC 12-7-2-178.8 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 178.8. "Smoking", for  
8 purposes of IC 12-24-2-8, has the meaning set forth in ~~IC 16-41-37-3.~~  
9 **IC 7.1-5-12-2.**

10 SECTION 3. IC 12-24-2-8 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) Notwithstanding  
12 IC 12-27-3-3, the superintendent of a state institution has complete  
13 authority to regulate smoking (as defined in ~~IC 16-41-37-3~~)  
14 **IC 7.1-5-12-2**) within the state institution.

15 (b) A physician licensed under IC 25-22.5 may prescribe nicotine  
16 as is medically necessary for a resident of a state institution.

17 SECTION 4. IC 16-18-2-10, AS AMENDED BY P.L.101-2007,  
18 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
19 JULY 1, 2010]: Sec. 10. (a) "Agency", for purposes of IC 16-23.5, has  
20 the meaning set forth in IC 16-23.5-1-2.

21 (b) "Agency", for purposes of IC 16-40-5, has the meaning set forth  
22 in IC 16-40-5-1.

23 (c) "Agency", for purposes of ~~IC 16-41-37,~~ has the meaning set forth  
24 in ~~IC 16-41-37-1.~~

25 SECTION 5. IC 16-41-37-4 IS AMENDED TO READ AS  
26 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. A person who  
27 smokes **(as defined in IC 7.1-5-12-2)**

28 **(1) in a public building, except in an area designated as a smoking**  
29 **area under section 5 of this chapter;**

30 **(2) in the retail area of a grocery store or drug store that is**  
31 **designated as a nonsmoking area by the store's proprietor;**

32 **(3) in the dining area of a restaurant that is designated and posted**  
33 **as the restaurant's nonsmoking area by the restaurant's proprietor;**

34 **or**

35 **(4) in a school bus during a school week or while the school bus**  
36 **is being used for a purpose described in section 2.3(3) of this**  
37 **chapter commits a Class B infraction. However, the violation is**  
38 **a Class A infraction if the person has at least three (3) previous**  
39 **unrelated judgments for violating this section that are accrued**  
40 **within the twelve (12) months immediately preceding the**  
41 **violation.**

42 SECTION 6. THE FOLLOWING ARE REPEALED [EFFECTIVE

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- 1 JULY 1, 2010]; IC 16-18-2-298; IC 16-18-2-318.1; IC 16-18-2-332;
- 2 IC 16-41-37-1; IC 16-41-37-2; IC 16-41-37-3; IC 16-41-37-3.1;
- 3 IC 16-41-37-5; IC 16-41-37-6; IC 16-41-37-7; IC 16-41-37-8.

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